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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JOSUE PAGUADA, on behalf of himself and all others  
similarly situated,

Plaintiff,

-against-

TRIANGLE HOME FASHIONS, LLC,

Defendant.

1:20-cv-06670-MKV

ORDER OF DISMISSAL

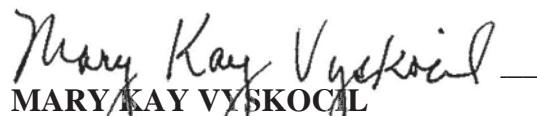
MARY KAY VYSKOCIL, United States District Judge:

Plaintiff filed the Complaint on August 20, 2020. [ECF No. 1.] Proof of service filed with the Court on August 26, 2020, reflects that Defendant Triangle Home Fashions, LLC was served with the Complaint on August 25, 2020. [ECF No. 5.] On February 16, 2021, the Court entered an Order setting a deadline of March 2, 2021, for Plaintiff to move for default judgment. [ECF No. 12; *see also* ECF Nos. 6, 10.] The Order warned, “If Plaintiff does not move for default judgment by that date, the Court will dismiss the action for failure to prosecute.” To date, Plaintiff has not moved for default judgment.

Accordingly, IT IS HEREBY ORDERED that the above-captioned action is discontinued for failure to prosecute without costs to any party and without prejudice to restoring the action to this Court’s calendar if the application to restore the action is made by **May 5, 2021**. If no such application is made by that date, today’s dismissal of the action is with prejudice. *See LeSane v. Hall’s Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630 (1962)).

**SO ORDERED.**

**Date: April 5, 2021**  
**New York, NY**

  
**MARY KAY VYSKOCIL**  
**United States District Judge**